

Atty Dkt No. 3200-0016

**COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR CONTINUATION-IN-PART APPLICATION****AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:**

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled TRANSDERMAL AND TOPICAL ADMINISTRATION OF LOCAL ANESTHETIC AGENTS USING BASIC ENHANCERS, the specification of which

☒ is attached hereto.

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, Code of Federal Regulations §§ 1.56(a) and (b) which state:

"(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

Atty Dkt No. 3200-0016

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability."

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than one year prior to this application.

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations § 1.56(a) and (b) set forth above which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.: 09/972,008  
Filing Date: October 4, 2001  
Status: Pending

Application Serial No.: 09/738,410  
Filing Date: December 14, 2000  
Status: Pending

Application Serial No.: 09/569,889  
Filing Date: May 11, 2000  
Status: Pending

Atty Dkt No. 3200-0016

Application Serial No.: 09/465,098  
Filing Date: December 16, 1999  
Status (patented, pending, abandoned): Pending

Application Serial No.: 09/738,395  
Filing Date: December 14, 2000  
Status: Pending

Application Serial No.: 09/607,892  
Filing Date: June 30, 2000  
Status: Abandoned

I hereby appoint the following attorneys and agents to prosecute that application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to the invention:

Dianne E. Reed, Reg. No. 31,292  
Shelley P. Eberle, Reg. No. 31,411  
J. Elin Hartrum, Reg. No. 43,663  
Louis L. Wu, Reg. No. 44,413  
Cynthia R. Moore, Reg. No. 46,086  
CUSTOMER NO. 23980

Address all correspondence to Shelley P. Eberle at

REED & ASSOCIATES  
800 Menlo Avenue, Suite 210  
Menlo Park, California 94025


Address all telephone calls to Shelley P. Eberle at (650) 330-0900.

This appointment, including the right to delegate this appointment, shall also apply to the same extent to any proceedings established by the Patent Cooperation Treaty.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Atty Dkt No. 3200-0016

## Sole or First Joint Inventor:

Signature:  Date: 6/18/2002  
Full Name Inventor: Eric C. Luo  
Citizenship: United States of America  
Residence: Plano, Texas  
Post Office Address: 6833 Saint Lawrence Street, Plano, Texas 75024

## Second Joint Inventor:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Full Name Inventor: Nicole T. Gricenko  
Citizenship: United States of America  
Residence: San Diego, California  
Post Office Address: 4201 6<sup>th</sup> Avenue, #306, San Diego, California 92103

## Third Joint Inventor:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Full Name Inventor: Tsung-Min Hsu  
Citizenship: Republic of China  
Residence: San Diego, California  
Post Office Address: 8640 Via Mallorca Drive, Apt. F, San Diego, California 92037

Atty Dkt No. 3200-0016

## Sole or First Joint Inventor:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Full Name Inventor: Eric C. Luo  
Citizenship: United States of America  
Residence: Plano, Texas  
Post Office Address: 6833 Saint Lawrence Street, Plano, Texas 75024

## Second Joint Inventor:

Signature: Nicole T. Gricenko Date: June 18, 2002  
Full Name Inventor: Nicole T. Gricenko  
Citizenship: United States of America  
Residence: San Diego, California  
Post Office Address: 4201 6<sup>th</sup> Avenue, #306, San Diego, California 92103

## Third Joint Inventor:

Signature: Tsung-Min Hsu Date: 6/18/2002  
Full Name Inventor: Tsung-Min Hsu  
Citizenship: Republic of China  
Residence: San Diego, California  
Post Office Address: 8640 Via Mallorca Drive, Apt. F, San Diego, California 92037

Atty Dkt 3200-0016.10  
PATENT

**TRANSDERMAL AND TOPICAL ADMINISTRATION OF  
LOCAL ANESTHETIC AGENTS USING BASIC ENHANCERS**

**CROSS-REFERENCE TO RELATED APPLICATIONS**

[0001] This application is a divisional of U.S. Serial No. 10/176,265 filed on June 19, 2002, which is a continuation in part of US Serial No. 09/972,008 filed on October 4, 2001, which is a continuation in part of US Serial No. 09/738,410 filed on December 14, 2000, which is a continuation in part of US Serial No. 09/569,889 filed on May 11, 2000, which is a continuation in part of US Serial No. 09/465,098 filed on December 16, 1999; and is a continuation in part of US Serial No. 09/738,395 filed on December 14, 2000, which is a continuation in part of US Serial No. 09/607,892 filed on June 30, 2000, now abandoned.

**FIELD OF THE INVENTION**

[0002] This invention relates generally to the topical and transdermal administration of local anesthetic agents, and more particularly relates to methods and compositions for enhancing the flux of local anesthetic agents through a body surface utilizing a basic permeation enhancer.

**BACKGROUND OF THE INVENTION**

[0003] The delivery of drugs through the skin provides many advantages; primarily, such a means of delivery is a comfortable, convenient and noninvasive way of administering drugs. The variable rates of absorption and metabolism encountered in oral treatment are avoided, and other inherent inconveniences, e.g., gastrointestinal irritation and the like, are eliminated as well. Transdermal drug delivery also makes possible a high degree of control over blood concentrations of any particular drug.

[0004] Skin is a structurally complex, relatively thick membrane. Molecules moving from the environment into and through intact skin must first penetrate the stratum corneum and any material on its surface. They must then penetrate the viable epidermis, the papillary dermis, and the capillary walls into the blood stream or lymph channels. To be so absorbed, molecules must overcome a different resistance to penetration in each type of tissue. Transport across the skin membrane is thus a complex phenomenon. However, it is the cells of the stratum corneum, which present the primary barrier to absorption of topical compositions or transdermally